

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 1, 2008. Reconsideration and allowance of the application in view of the amendment made above and the remarks to follow are respectfully requested.

Claims 1-9 and 11-20 are currently pending in the Application. Claim 10 is canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications.

In the Office Action, claims 8-17 are rejected under 35 U.S.C. §101. Without agreeing with the Examiner, and to advance prosecution and expedite allowance of the present application, claim 8 has been amended to clarify that the system comprises a processor device as suggested in the Office Action. No new matter is added by this amendment. Accordingly, withdrawal of the rejections to claims 8-17 is respectfully requested.

Claims 1, 3-5, 8, 9 and 12-20 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,195,701 to Kaiserswerth ("Kaiserswerth") in view of a publication entitled "Operating System Concepts" by Siberschatz ("Siberschatz"). Claims

2 and 11 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent Publication No. 2001/0026558 to Kamiya ("Kamiya"). Claim 6 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent No. 7,150,017 to Vogl ("Vogle"). Claim 7 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kaiserswerth in view of Siberschatz in further view of U.S. Patent No. 6,374,405 to Willard ("Willard"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-9 and 11-20 are allowable over Kaiserswerth in view of Siberschatz alone and in view of Kamiya, Vogle and Willard for at least the following reasons.

It is undisputed that Kaiserswerth does not disclose or suggest "scheduling only the schedulable component that can contribute at the total earliest time to the output of said real time system." (See, Office Action, page 4, lines 9-11.)

Siberschatz is cited to cure this deficiency in Kaiserswerth but it is respectfully submitted that reliance on Siberschatz is misplaced. The Office Action alleges that "Silberschatz does teach scheduling only the schedulable component that can contribute at

the total earliest time to the output of said real time system ('6.3.2 Shortest-Job-First Scheduling' - See p. 158 ..." (See, Office Action, page 4, lines 11-15.) This position is respectfully traversed. It is respectfully submitted that Silberschatz (emphasis added) "associates with each process the length of the latter's next CPU burst. When the CPU is available, it is assigned to the process that has the smallest next CPU burst." (See, Silberschatz, page 158, section 6.3.2, lines 2-4.) Silberschatz makes clear that a (emphasis added) "more appropriate term [for the scheduling of Silberschatz] would be the shortest next CPU burst, because the scheduling is done by examining the length of the next CPU burst of a process ..."

Accordingly, Silberschatz merely schedules components based on the CPU burst time of the components irrespective of whether the components contribute to the output of the real time system. The Office Action seems to recognize this distinction in that the Office Action cites Silberschatz in stating that (emphasis added) "[w]hen the CPU is available, it is assigned to the process that has the smallest next CPU burst" (See, Office Action, page 4, lines 14-15.) However, then the Office Action enters into unsupported conjecture in finding that (emphasis added) "under, the Shortest-

Job-First scheduling algorithm shown on pages 158-159, an earliest time at which a process can contribute to the output of the system is determined by determining a 'Burst Time' for all pending processes."

It must be pointed out that nowhere within Silberschatz, section 6.3.2, cited in the Office Action for support of the above conjecture, is the term "output" utilized in any form. Silberschatz does not support the conjecture of the Office Action and states that Shortest-Job-First Scheduling simply "gives the minimum average waiting time for a given set of processes." (See, Silberschatz, page 159, lines 6-7.) It is respectfully submitted that Silberschatz makes no distinction between processes that can contribute at the total earliest time to the output of the real time system and processes that do not.

Accordingly, the method of claim 1 is not anticipated or made obvious by the teachings of Kaiserswerth in view of Silberschatz. For example, Kaiserswerth in view of Silberschatz does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "scheduling only the schedulable component that can contribute at the total earliest time to the output of said real time system" as recited in claim 1,

and as similarly recited by each of claims 8 and 18. Kamiya, Vogle and Willard are cited for allegedly showing different features and do not cure the noted deficiencies of Kaiserswerth in view of Siberschatz.

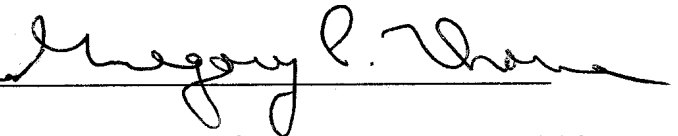
Based on the foregoing, the Applicants respectfully submit that independent claims 1, 8 and 18 are patentable over Kaiserswerth in view of Siberschatz alone and in view of Kamiya, Vogle and Willard and notice to this effect is earnestly solicited. Claims 2-7, 9, 11-17 and 19-20, respectively depend from one of claims 1, 8 and 18 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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